

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MAURICE WILLIAMS,)
)
Petitioner,)
)
v.) No. 4:07CV2045 HEA
)
JULIAN L. BUSH,)
)
Respondent.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.¹ Petitioner filed his petition on the grounds that (1) he was not given "an initial appearance (1st arraignment); (2) the information was recalled, thus creating "a double jeopardy issue for arraigning [him] on 7/13/07"; and (3) he was illegally placed in a line-up. The petition will be summarily dismissed.

Under 28 U.S.C. § 2241(c)(3), the federal courts have jurisdiction over pretrial habeas petitions. *Neville v. Cavanagh*, 611 F.2d 673, 675 (7th Cir.1979). "Despite the existence of jurisdiction, however, federal courts are reluctant to grant pre-trial

¹The Court notes that, on August 28, 2007, petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, which this Court dismissed on October 26, 2007. *See Williams v. Bush*, No. 4:07-CV-1531-HEA (E.D.Mo.).

habeas relief.” *Id.* Moreover,

[t]he exhaustion doctrine requires a petitioner to use all available state procedures to pursue his claim before seeking federal habeas corpus relief. In most cases courts will not consider claims that can be raised at trial and in subsequent state proceeding. A petitioner will be held to have exhausted his remedies before trial only in ‘special circumstances.’

Blanck v. Waukesha County, 48 F. Supp. 2d 859, 860 (D. Wis. 1999). In the instant case, petitioner’s allegations do not constitute the “special circumstances” required for finding that he has exhausted his available state remedies. Petitioner’s claims can be adequately raised at trial and in subsequent state proceedings. As a result, the Court will deny the petition.

Accordingly,

IT IS HEREBY ORDERED that petitioner’s motion to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment shall accompany this Memorandum and Order.

Dated this 5th day of February, 2008.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE